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SUBJECT: HUMAN RIGHTS COUNCIL: ADDITIONAL REPORTING ON
ADOPTION OF RESOLUTION TEXT

REF: USUN 515

¶1. INTRODUCTION AND SUMMARY: As reported reftel, the UN General Assembly adopted the resolution on establishment of the Human Rights Council (HRC) by a vote of 170-4 (U.S.) with 3 abstentions. Reftel reported on the presentation of the resolution text and Explanations of Vote (EOVs) delivered in the morning session; this cable provides reporting on the afternoon session. In its EOV, CANZ countries expressed support for the resolution while noting that it was not possible to reach agreement on all their hopes for the Council, and pledged they "will not vote on to the Council countries where there is objective evidence of gross and systematic violations of human rights, including those that are under sanctions of the Security Council for human rights related reasons." Liechtenstein also agreed that States that are under Security Council enforcement measures for their human rights record should not serve on the new Council for as long as those measures are in place, and expressed the hope that all States committed to the promotion and protection of human rights will engage with the newly created body. Japan, Timor-Leste and Iceland also said their countries will not vote for countries under sanctions for human rights reasons. Brazil, speaking also on behalf of Paraguay, Uruguay, Panama, Colombia, and Guatemala, expressed regret that the representation of GRULAC in the Council as compared to the Commission was decreased by 27 percent.

¶2. SUMMARY, CONTINUED: Sudan's statement criticized the United States and expressed its opposition to any attempt to politicize the HRC or link it to the Security Council, while Iran expressed concern that the two-thirds provision to suspend membership would be used by "certain states" to pursue a "politically-motivated" policy. Egypt, Syria and Algeria said the HRC should address the issues of self-determination and foreign occupation. Pakistan said the CHR had been discredited not by the worst violators, but by the tendency of some states to condemn rather than to help each other, and complained about selective targeting of developing countries, especially Islamic ones. Pakistan also called for a review and rationalization of all of the UN's human rights machinery, and called the election provisions in OP 8 "unprecedented" but suggested that with the HRC precedent, 0.7 percent ODA should become a benchmark for election to ECOSOC. Closing the afternoon session UNGA President Eliasson expressed hope that Member States would work in a positive spirit to make the HRC a strong UN mechanism, and said that now Member States can move ahead with other reform issues. END SUMMARY.

SUPPORT FOR HRC TEXT, THOUGH NOT PERFECT

¶3. New Zealand's PermRep, also speaking on behalf of Canada and Australia, expressed CANZ support for the resolution. The CANZ EOV said they "believe that its key elements provide for a more effective international human rights body" than the CHR, while noting that it was not possible to reach

agreement on all their hopes for the Council, including stronger thresholds for membership through a 2/3 majority vote and tougher provisions for preventing gross and systematic abusers of human rights from being elected. The three countries pledged they "will not vote on to the Council countries where there is objective evidence of gross and systematic violations of human rights, including those that are under sanctions of the Security Council for human rights related reasons."

¶4. Liechtenstein's PermRep stated that while Liechtenstein shares the dissatisfaction of others with some of the HRC's features, it firmly believes that "the adopted text constitutes a significant improvement over the Commission on Human Rights." He noted their preference for a more flexible convening mechanism (e.g. to allow for a case-specific dialogue with the special procedures, treaty bodies and HCHR) and a clear division of work between the HRC and the UNGA Third Committee, but said that this concern could be accommodated when the HRC is set up, and more generally, that the Council "will be what we all allow it to be and make it to be, through our collective political will." Liechtenstein also agreed that States that are under Security Council enforcement measures for their human rights record should not serve on the HRC for as long as those measures are in place. Finally, Liechtenstein noted its preference for a consensual adoption of the resolution, but said "More importantly, though, we firmly believe that it is crucial that all States committed to the promotion and protection of human rights to engage with the newly created body and make sure it truly reflects the new approach our Heads of State and Governments decided on at the Summit meeting in September."

¶5. Japan welcomed the HRC as an improvement to the UN's human rights machinery, despite its preference that the HRC be a principal organ with a two-thirds majority required for election. Saying that the task now is for Member States to ensure the HRC is credible, Japan expressed support for written pledges by candidate countries and said Japan will not vote for countries under sanctions for human rights reasons. Japan also expressed a desire for the planned 5-year review to occur earlier. Iceland's PermRep said "I feel obliged to register disappointment that the final outcome does not match the ambitions in the clear and principled approach proposed by the Secretary General in his original report" but said it supported the resolution "because the alternative of falling back on the Commission is unacceptable and not in the interests of human rights," and noted several positive aspects of the resolution. Iceland also said it will not vote for any candidate country that is under sanctions imposed by the Security Council for human rights related reasons or any country that is considered to be committing gross and systematic violations of human rights.

¶6. Argentina supported passage of the resolution, saying that even though the text does not contain some of the elements that were important to Argentina, such as making the HRC a principal organ of the UN or having elections by 2/3 majority, the resolution provides an appropriate basis for the creation of the HRC. It continued: "Argentina will strive for a Human Rights Council that will foremost be a sensitive forum to the claims of victims of repressive acts, all those who were denied the rights that the Universal Declaration guarantees them, no matter where they may occur. Cooperation among states must be in favor of these victims and not to their detriment."

¶7. Brazil, speaking also on behalf of Paraguay, Uruguay, Panama, Colombia, and Guatemala, firmly supported the President's text, calling it a step forward toward the strengthening and improvement of the human rights machinery, and saying that it hopes imperfections will be fixed through the day-to-day practice of the new body. Brazil noted three particular concerns: that the text could have included more comprehensively the concepts of dialogue and cooperation; regret that the proposal for a global report was not included in the final draft; and regret that the representation of GRULAC in the Council as compared to the Commission was

decreased by 27 percent. It continued: "We understand that regions with increased number of countries should expand their presence. But there was no decrease in the number of countries in our region. So we fail to see why its representation has been reduced so drastically." Peru welcomed the creation of the HRC, but endorsed Brazil's statement expressing regret for the decreased presence of Latin America and the Caribbean on the HRC.

18. Speaking for the Community of Portuguese-Speaking Countries (Angola, Brazil, Cape Verde, Guinea-Bissau, Mozambique, Timor-Leste, Sao-Tome and Principe, and Portugal,) Sao-Tome and Principe welcomed the resolution as an important step in the implementation of the decisions at the 2005 summit. Timor-Leste, though associating with this statement went further and said it would have preferred extended negotiations, supported US and EU statements, and pledged not to vote for sanctioned countries. Monaco, speaking also for Andorra and San Marino, endorsed the EU statement and stated its belief that the text could and should have gone farther to ensure the HRC's credibility, but said it marks significant progress over the past. Kenya praised the spirit of accommodation and the improvements made, but stated their disappointment that a vote took place at all. It also stressed the need for dialogue in the HRC, as opposed to confrontation, which it said is often the means of interaction in the CHR.

SUDAN CRITICIZES U.S., IRAN EXPLAINS ABSTENTION

19. After reaffirming the statements made on behalf of the African Group and OIC, Sudan said the HRC is one part of the reform process that must "revitalize" the UN. Sudan's EOV continued by stating that, as opposed to past actions by "great powers" that acted "beyond the law," it hoped the HRC is based on "international cooperation" without selectivity, and is respectful of cultures and religions. Sudan said it did not wish to reply to the US statement because previous efforts made to remind the US of "lessons" from history were made in vain. Instead of receiving "lessons" from the US, Sudan wanted guarantees that Guantanamo, Abu Ghraib, and other places of detention were like "5-star tourist resorts." Sudan also expressed its opposition to any attempt to politicize the HRC or link it to the Security Council, as doing so would "violate" the reform process and weaken the General Assembly.

110. Iran said it preferred consensus, but attributed Iran's abstention to certain provisions in the resolution. Iran said it attaches great importance to dialogue and the elimination of double standards, and hopes the HRC will promote cultural and religious understanding. Though it hopes that politicization will be eliminated, Iran expressed concern that the two-thirds provision to suspend membership would be used by "certain states" to pursue a "politically-motivated" policy. Iran continued by stating that the resolution did not duly take into consideration the OIC's concerns about religious tolerance.

EGYPT, SYRIA AND ALGERIA - HRC SHOULD ADDRESS FOREIGN OCCUPATION

111. Egypt explained its understanding of certain provisions of the resolution, including that the HRC should work to promote the principle of the right of self-determination of peoples under "colonial domination and foreign occupation," that the HRC should present all its recommendations and resolutions to the GA for consideration, that "highest standards" in OP 9 refers to those standards that have been internationally recognized and agreed upon by all states collectively, and that the suspension of rights of membership as stated in OP8 should be an exceptional application to the HRC only and should not represent a precedent for other UN bodies. Egypt also said that PP7 entails the responsibility of states and international organizations in ensuring respect for religions and prophets, and the responsibility of the HRC and the GA "in ensuring that all states abide by their responsibilities in this regard."

¶12. Egypt and Syria also associated themselves with the OIC, with Syria commenting that OIC language had not been fully considered during consultations. In its EOV, Syria said it voted yes because it hoped "some others" would show flexibility. It continued by saying the HRC must only deal with a state's internal affairs when it is under foreign occupation; this was followed by a statement recalling "Israel's practices" in the "occupied territories," which Syria called a "gross violation of human rights." Syria also called for the CHR's Agenda Item 8 to be transferred to the HRC. Algeria said the text is balanced while mentioning the importance of "dialogue and cooperation," and also stated that it would have liked to see other elements in the text, especially the right to self-determination and freedom from "foreign occupation."

PAKISTAN ON NEXT STEPS

¶13. Pakistan's PermRep Munir Akram pointed to a "long UN tradition" that texts of the President of the GA are for adoption by consensus, and stated Pakistan's view that decisions on reform should be adopted without a vote, hoping the HRC vote would not have a negative impact on other reform issues. He said the CHR had been discredited not by the worst violators, but by the tendency of some states to condemn rather than to help each other, and complained about selective targeting of developing countries, especially Islamic ones. He also said that while the resolution focused only on replacing the CHR, there should be a review and rationalization of the rest of the UN's human rights machinery, including the special procedures, SubCommission, 1503 procedure, civil society participation, and the composition and operation of the Office of the High Commissioner. Pakistan called the election provisions in OP 8 "unprecedented," but suggested it could now be used as a precedent for other bodies, further suggesting that 0.7 percent ODA should become a benchmark for election to ECOSOC. Pakistan concluded by stating that the 2005 Summit was to be a development summit and expressed concerns with delays on the development and ECOSOC reform resolutions, saying that now that the HRC resolution is "out of the way," Pakistan trusts the PGA would make these his first priority.

OTHER VOICES

¶14. Morocco accepted the text and associated itself with the OIC and African statements, reminding the floor that the HRC was a "fragile balance" of diverse views. Indonesia called the text a fair, but not a fully satisfactory, compromise, while saying it should provide for better human rights machinery than the CHR. In addition, Indonesia said the HRC must be faithful to universality and non-selectivity and the elimination of double standards and politicization. Indonesia also associated with the OIC statement, and in reference to the recent Danish cartoons, said that freedom of expression must be "exercised with responsibility."

¶15. Russia stated that though far from perfect, the resolution is a starting point for the future of the new human rights body. It expressed concerns about the term limits in OP7 and said the paragraph contradicts the universal membership contained in the preambular section. In addition, Russia stated that the criteria that will be used to judge member states are still not clear.

¶16. India stated that the decision on the HRC showed that the GA "could deliver" and congratulated all members on what they had done. India stated that the text contained an implicit reference to the right to development, calling it an "inalienable human right." China also called the decision historic and praised Eliasson, but stated that there was no guarantee that the HRC would avoid political confrontation. In line with India, China stated the text failed to fully address the main concerns of developing countries. China noted that it will make further comments on its concerns during discussions on the rules of procedure for the HRC. St. Vincent and the Grenadines, on behalf of CARICOM,

accepted the HRC in the spirit of compromise and said it hopes the HRC will avoid double standards and selectivity.

ISRAEL'S EOV FOR ITS "NO" VOTE

¶17. Israel was the only other state that voted "no" (besides the US) to deliver an EOV. Israel expressed profound regret that the resolution fell short of its expectations (and noting that there is no benchmark for membership ensuring the improvement of membership), and gave Israel no other choice but to vote against it, as "radical failure calls for radical change."

CUBA'S RIGHT OF REPLY

¶18. At the end of the afternoon session, Cuba delivered a right of reply to the earlier U.S. statement. It criticized the USG, saying imperialism persists and accusing the United States of making a "self declaration of moral superiority." Cuba asked how the United States can demand conditions for entry into the HRC, alleging U.S. troops were mistreating prisoners in GTMO and Abu Ghraib and attacking Muslim sentiments. Cuba also said it was unacceptable that some countries were taking on a right to interpret the HRC text, "especially if to satisfy US interests," asking whether CANZ and the EU will stand against a U.S. presence on the HRC "since the US violates human rights"?

ELIASSON CLOSES THE SESSION

¶19. Closing the afternoon session with a quote from Eleanor Roosevelt, Eliasson said the session provided an important opportunity for delegations to listen to each other, including regarding their interpretations of text and aspirations for the HRC, etc. He expressed hope that Member States would work in a positive spirit to make this a strong UN mechanism, including through cooperation and dialogue, and especially tolerance and respect for cultures and religions, which he said should be worked on in different UN bodies. He called adoption of the resolution an achievement, and praised delegations for taking an international and long-term perspective to strengthen the HR machinery and the United Nations. Eliasson said he sees this action also from the perspective of GA role and authority, and its capacity to take decisions where needed, saying the GA can deliver and is capable of taking such decisions. He concluded by saying that now Member States can move ahead, with work to do on ECOSOC reform and development and management and secretariat reform. (Note: He listed these reform activities in this order in his statement. End Note.)

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